

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Griffin Sherbert	Team: Squad #7	CCRB Case #: 201903756	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Wednesday, 04/17/2019 4:30 PM	Location of Incident: 86th Street and 3rd Avenue	Precinct: 68	18 Mo. SOL 10/17/2020	EO SOL 6/3/2021	
Date/Time CV Reported Wed, 04/17/2019 11:00 PM	CV Reported At: Precinct	How CV Reported: Fax	Date/Time Received at CCRB Thu, 05/02/2019 11:22 AM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Hassan Gheith	07404	938557	068 PCT
2. LT Jason Nino	00000	937188	068 PCT

Officer(s)	Allegation	Investigator Recommendation
A.LT Jason Nino	Abuse: Lieutenant Jason Nino stopped the vehicle in which § 87(2)(b) was an occupant.	
B.POM Hassan Gheith	Abuse: Police Officer Hassan Gheith stopped the vehicle in which § 87(2)(b) was an occupant.	

Case Summary

On April 17, 2019, Sergeant Christopher Caminiti of the 68th Precinct, faxed the following CCRB complaint to the IAB Command Center, filed at the 68th Precinct stationhouse that day by § 87(2)(b). On May 2, 2019, the CCRB received this complaint from IAB.

On April 17, 2019, at approximately 4:30 p.m., § 87(2)(b) was driving alone in his vehicle, when he was pulled over by Police Officer Hassan Gheith and Lieutenant Jason Nino, both of the 68th Precinct, in the vicinity of the intersection of 86th Street and 3rd Avenue in Brooklyn (**Allegations A and B: Abuse of Authority-Vehicle Stop**, § 87(2)(g)).

The investigation obtained two Body Worn Camera (“BWC”) videos from PO Gheith (BR01) and Lt. Nino (BR02), which captured the relevant portions of this incident.

Findings and Recommendations

Allegation A—Abuse of Authority: Lieutenant Jason Nino stopped the vehicle in which § 87(2)(b) was an occupant.

Allegation B—Abuse of Authority: Police Officer Hassan Gheith stopped the vehicle in which § 87(2)(b) was an occupant.

§ 87(2)(b) stated that on April 17, 2019, at approximately 4:30 p.m., he was driving alone in his white, 2018 Honda Accord, § 87(2)(b), when he was stopped by an unmarked RMP in the vicinity of 86th Street and 3rd Avenue in Brooklyn (BR03).

PO Gheith and Lt. Nino approached the driver side and passenger side of § 87(2)(b)'s vehicle, respectively, and PO Gheith asked § 87(2)(b) to produce his license and registration. § 87(2)(b) asked what he did wrong, and PO Gheith asked him to produce his license and registration. § 87(2)(b) did not immediately comply, but after PO Gheith ordered him to produce his license and registration a few more times, § 87(2)(b) produced his documents.

While PO Gheith ran § 87(2)(b)'s information on his cell phone, § 87(2)(b) asked, “You don’t remember me?” PO Gheith replied no. § 87(2)(b) told PO Gheith that he had stopped him for no reason before, and PO Gheith told him that he did not remember him. § 87(2)(b) said, “Were you high or something?” PO Gheith repeated that he did not remember him. After approximately five minutes, PO Gheith returned § 87(2)(b)'s license and registration, told him to have a good day, and walked away from the vehicle.

§ 87(2)(b) exited his vehicle, requested PO Gheith’s name, and began looking for a piece of paper inside his vehicle. When § 87(2)(b) turned back, PO Gheith was standing next to him, close to the open driver side door. PO Gheith asked him about a plastic bag in the door’s cup holder, and said it smells like weed. § 87(2)(b) got mad at PO Gheith’s remark, and told him, “I dare you to plant something.” PO Gheith replied that it smelled like weed in his vehicle. § 87(2)(b) denied smoking or possessing any marijuana in his vehicle that day.

§ 87(2)(b) asked the officers to call their supervisor. Lt. Nino, who was standing on the passenger side of the unmarked RMP, told § 87(2)(b) that he was the “highest ranked officer on the street.” § 87(2)(b) asked for the officers’ name and badge numbers, and PO Gheith provided his information. Lt. Nino gave his name but stated that he does not have a badge number. After § 87(2)(b) wrote down their information, the officers left the scene.

The investigation obtained BWC footage from PO Gheith (BR01) and Lt. Nino (BR02) that captured the entirety of the vehicle stop. PO Gheith’s BWC (BR01) captured the most relevant sections, as described below.

The video begins at the initiation of the vehicle stop, and the audio begins during PO Gheith's approach of § 87(2)(b)'s vehicle. PO Gheith asks § 87(2)(b) for his license and registration, and § 87(2)(b) is heard saying, "this is the second time you harassed me." PO Gheith denies that he has harassed him, and asks for § 87(2)(b)'s license and registration again. After several requests, § 87(2)(b) provides his identification to PO Gheith, and turns up the radio in the vehicle. At the 3:39 minute mark, PO Gheith tells § 87(2)(b) to have a good one, and he says, "I need you to call your sergeant." PO Gheith returns § 87(2)(b)'s documents, and begins to walk back to the RMP. PO Gheith turns around as § 87(2)(b) states that he needs his badge number. PO Gheith provides his badge number and name. § 87(2)(b) asks for Lt. Nino's badge, and PO Gheith says he does not have a badge number as he is a lieutenant. At the 4:24 minute mark, PO Gheith tells § 87(2)(b) "and the car smells like weed! What's this over here, man?" PO Gheith bends down toward the well of the open door, as § 87(2)(b) is heard repeating the phrase, "Go ahead, plant it. Go ahead, plant it." PO Gheith asks if the bag on the side of the door has weed in it. § 87(2)(b) says plant it. § 87(2)(b) asks Lt. Nino who is in charge of him, he replies the captain. § 87(2)(b) says he is going to call 911 right now as PO Gheith and Lt. Nino walk back to the RMP. PO Gheith does not provide a reason for the stop at any point during the captured video footage.

Lt. Nino's (BR04) and PO Gheith's (BR05) statements were generally consistent with each other and the BWC footage cited above. Lt. Nino and PO Gheith stated that at approximately 4:23 p.m. on the date of the incident, they were conducting patrol on 86th Street in Brooklyn, when they observed § 87(2)(b) "driving erratically," which they described swerving between lanes frequently without signaling. After observing § 87(2)(b) make a right turn onto 3rd Avenue without using his turn signal, Lt. Nino and PO Gheith stopped his vehicle.

Both officers stated that while PO Gheith validated the information on his driver's license, § 87(2)(b) was agitated, stated that they had stopped him before, and repeatedly accused them of harassment. PO Gheith told § 87(2)(b) that he had never seen him before, and both officers denied having any prior interaction with § 87(2)(b). Both officers were consistent that § 87(2)(b)'s erratic driving, and failure to use his turn signal, were the sole reasons for the vehicle stop.

After running his license, PO Gheith returned § 87(2)(b)'s documents, and warned and admonished § 87(2)(b) in lieu of issuing him a summons. PO Gheith (BR05) thought that he provided § 87(2)(b) with the reason for the vehicle stop, and due to the § 87(2)(b)'s agitation, used his discretion to not issue him a summons.

As Lt. Nino and PO Gheith began to walk back to their RMP, § 87(2)(b) exited his vehicle and asked for their names and shield numbers, which they both verbally provided. PO Gheith affirmed that when he walked back to § 87(2)(b)'s vehicle, he did smell the odor of marijuana from his vehicle, but did not take enforcement action, also based upon his discretion. Lt. Nino and PO Gheith returned to the RMP, and resumed patrol.

No person shall so turn any vehicle without giving an appropriate signal [...] A signal of intention to turn right or left when required shall be given continuously during not less than the last one hundred feet traveled by the vehicle before turning [...] The signals shall be used to indicate an intention to turn, change lanes, or start from a parked position. NYS VTL, §1163 (a) (b) (d) (BR06).

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Civilian and Officer CCRB Histories

- This is the first CCRB complaint in which § 87(2)(b) has been a party.
- Lt. Nino, a 14-year-member-of-service, has had two prior CCRB complaints filed against him, with a total of three allegations, none of which have been substantiated (see Officer History). § 87(2)(g)
- PO Gheith, a 14-year-member-of-service, has had seven prior CCRB complaints filed against him, with a total of 25 allegations, four of which have been substantiated (see Officer History). § 87(2)(g)
 - In CCRB #201702427, strip-search allegations were pleaded against PO Gheith, the CCRB recommended Charges, and the NYPD disposition is pending.
 - In CCRB #201709023, retaliatory summons and stop of person allegations were pleaded against PO Gheith, the CCRB recommended Instructions, the NYPD concurred, and PO Gheith was penalized with Command Level Instructions.

Mediation, Civil and Criminal Histories

- § 87(2)(b) rejected mediation for this case.
- On August 28, 2019, a FOIL request was sent to the NYC Comptroller's Office to determine whether § 87(2)(b) has filed a Notice of Claim in regards to this incident (BR10). The results of which will be added to the case file upon receipt.

• § 87(2)(b)

Squad No.: 7

Investigator:	_____	_____	_____
	Signature	Print Title & Name	Date

Squad Leader:	_____	_____	_____
	Signature	Print Title & Name	Date

Reviewer:	_____	_____	_____
	Signature	Print Title & Name	Date